

**STATE OF CONNECTICUT  
DEPARTMENT OF PUBLIC HEALTH  
BUREAU OF REGULATORY SERVICES**

In re: Robert Bertollette

Petition No. 2001-0820-039-001

**CONSENT ORDER**

WHEREAS, Robert Bertollette of West Hartford (hereinafter "respondent") has been issued license number 000042 to practice as an asbestos consultant - inspector by the Department of Public Health (hereinafter "the Department") pursuant to Chapter 400a of the General Statutes of Connecticut, as amended; and,

WHEREAS, the Department alleges that:

1. While providing asbestos consulting services to the Brookfield Public Schools during 1999 and 2000, respondent failed to perform in compliance with regulatory requirements and generally recognized standards of practice in that he failed to provide the management planner with information required for the management plan; failed to identify clearly each location where material was sampled and the approximate square or linear footage of homogeneous areas of known or assumed asbestos-containing material; failed to identify suspect asbestos-containing building material not previously identified; failed to classify asbestos-containing building material and suspected asbestos-containing building material as required; failed to assess suspect asbestos-containing building material in a manner consistent with §19a-333-6; failed to record the exact locations where samples were collected during a reinspection; and failed to provide a copy of the analysis of bulk samples collected and analyzed.

2. The above-described matters constitute grounds for disciplinary action pursuant to Chapter 400a and §19a-333 of the General Statutes of Connecticut, taken in conjunction with §§20-440-3, 19a-333-10(e)(4)(B), 19a-333-3(b)(1), 19a-333-6(c), 19a-333-(b)(3)(C), 19a-333-3(b)(H)(ii) and 19a-333-10(e)(4)(D) of the Regulations of Connecticut State Agencies.

WHEREAS, respondent, in consideration of this Consent Order, and without admitting any of the matters alleged nor any guilt of wrongdoing, has chosen not to contest this matter and agrees that for purposes of this or any future proceedings before the Department of Public Health (hereinafter "the Department"), this Consent Order shall have the same effect as if proven and ordered after a full hearing held pursuant to §§19a-14 and Chapter 400a of the General Statutes of Connecticut.

NOW THEREFORE, pursuant to §§19a-14, 19a-17 and Chapter 400a of the General Statutes of Connecticut, taken in conjunction with §20-440-6(b) of the Regulations of Connecticut State Agencies, respondent hereby stipulates and agrees to the following:

1. Respondent waives his right to a hearing on the merits of this matter.
2. Respondent's license number 000042 to practice as an asbestos consultant - inspector in the State of Connecticut is hereby reprimanded.
3. Respondent shall pay a civil penalty of one thousand five hundred dollars (\$1,500.00) by certified or cashier's check payable to "Treasurer, State of Connecticut." The check shall reference the Petition Number on the face of the check, and shall be payable at the time respondent submits the executed Consent Order to the Department.
4. Respondent's license shall be placed on probation for three months under the following terms and conditions:

- a. Respondent shall provide a weekly written report to the Department describing all activities performed under the inspector discipline of his license.

(1) The reports shall be provided directly to the Department by facsimile ((860) 509-7378) to the attention of Ronald Skomro, by no later than 4:00 p.m. on each Monday during the reporting period, or if a holiday, by no later than 4:00 p.m. on the next business day. Respondent shall also simultaneously provide the Department with the original copy of each report by regular mail, at the address identified in paragraph 5 below. Each report shall contain the information required by paragraph (4)(a)(3) below for the weekly period ending on the Friday before each report is due under paragraph (4)(a)(1). If there is no information to report for a particular weekly period, then respondent shall provide a statement to the Department so indicating and such statement shall be signed in accordance with the requirements of paragraph (4)(a)(2).

(2) Respondent shall be responsible for signing each report. The signature page shall be in the format described in Exhibit A, attached hereto and made a part thereof.

(3) Respondent shall be responsible for providing the following information: the address of property that is the subject of services he has performed during the reporting period, the name and address of the party for whom each job is being performed, a description of the activities performed for each job during the reporting period and an indication as to whether or not respondent has finalized an inspection report for a particular property during the reporting period.

- b. Respondent shall provide to the Department a copy of all inspection reports generated in the course of his work during the probationary period. There shall be a minimum of ten such reports of inspections at separate facilities provided to the Department prior to the termination of the probationary period. In the event that respondent does not generate ten reports within the three-month probationary period, his license will remain on probation until the submission and review of the tenth report.
5. All correspondence and reports are to be addressed to:

Ronald Skomro, Supervising Environmental Sanitarian  
Department of Public Health  
410 Capitol Avenue, MS #51AIR  
P.O. Box 340308  
Hartford, CT 06134-0308
6. Respondent shall comply with all state and federal statutes and regulations applicable to his licensure.
7. Respondent shall pay all costs necessary to comply with this Consent Order.
8. Any alleged violation of any provision of this Consent Order may result in the following procedures at the discretion of the Department:
  - a. The Department shall notify respondent in writing by first-class mail that the term(s) of this Consent Order have been violated, provided that no prior written consent for deviation from said term(s) has been granted.
  - b. Said notification shall include the acts or omission(s) which violate the term(s) of this Consent Order.
  - c. Respondent shall be allowed fifteen (15) days from the date of the mailing of notification required in paragraph 9a above to demonstrate to the satisfaction of the

Department that he has complied with the terms of this Consent Order or, in the alternative, that he has cured the violation in question.

- d. If respondent does not demonstrate compliance or cure the violation by the limited fifteen (15) day date certain contained in the notification of violation to the satisfaction of the Department, he shall be entitled to a hearing before the Department which shall make a final determination of the disciplinary action to be taken.
  - e. Evidence presented to the Department by either the Department or respondent in any such hearing shall be limited to the alleged violation(s) of the term(s) of this Consent Order.
9. In the event respondent violates any term of this Consent Order, respondent agrees immediately to refrain from practicing as an asbestos consultant - inspector upon request by the Department, with notice to the Department, for a period not to exceed 45 days. During that time period, respondent further agrees to cooperate with the Department in its investigation of the violation. Respondent further agrees that failure to cooperate with the Department in its investigation during said 45 day period shall constitute grounds for the Department to seek a summary suspension of respondent's license. In any such summary action, respondent stipulates that failure to cooperate with the Department's investigation shall constitute an admission that his conduct constitutes a clear and immediate danger as required pursuant to the General Statutes of Connecticut, sections 4-182(c) and 19a-17(c).
10. In the event respondent violates any term of this Consent Order, said violation may also constitute grounds for the Department to seek a summary suspension of his license before the Department.
11. In the event respondent is not employed as an asbestos consultant - inspector for periods of

thirty (30) consecutive days or longer, or is employed as an asbestos consultant - inspector less than twenty (20) hours per week, or is employed outside of the State of Connecticut, respondent shall notify the Department in writing. Such periods of time shall not be counted in reducing the probationary period covered by this Consent Order.

12. Legal notice shall be sufficient if sent to respondent's last known address of record reported to the Licensure and Registration Section of the Division of Health Systems Regulation of the Department.
13. This Consent Order is effective on the first day of the month immediately following the date this Consent Order is accepted and ordered by the Department.
14. Respondent understands this Consent Order may be considered as a public document and the Department's allegations as contained in this Consent Order shall be deemed true in any subsequent proceeding before the Department in which his compliance with this Consent Order or with Chapters 400a or 368l of the General Statutes of Connecticut, as amended, is at issue.
15. Any extension of time or grace period for reporting granted by the Department shall not be a waiver or preclude the Department from taking action at a later time. The Department shall not be required to grant future extensions of time or grace periods.
16. This Consent Order and terms set forth herein are not subject to reconsideration, collateral attack or judicial review in connection with any licensure matter regarding the respondent under the jurisdiction of the Department of Public Health. Further, this Order is not subject to appeal or review under the provisions of Chapters 54 or 368a of the General Statutes of Connecticut, provided that this stipulation shall not deprive respondent of any rights that he may have under the laws of the State of Connecticut or of the United States.
17. This Consent Order is a revocable offer of settlement which may be modified by mutual agreement or withdrawn by the Department at any time prior to its being executed by the

last signatory.

18. Respondent permits a representative of the Legal Office of the Bureau of Regulatory Services to present this Consent Order and the factual basis for this Consent Order to the Department. Respondent understands that the Department has complete and final discretion as to whether this executed Consent Order is approved or accepted.
19. Respondent understands and agrees that he is responsible for satisfying all of the terms of this Consent Order during vacations and other periods in which he is away from his residence.
20. Respondent has the right to consult with an attorney prior to signing this document.

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I, Robert Bertollette, have read the above Consent Order, and I stipulate and agree to the terms as set forth therein. I further declare the execution of this Consent Order to be my free act and deed.

Robert Bertollette  
Robert Bertollette

Subscribed and sworn to before me this 21<sup>st</sup> day of AUGUST 2002.

[Signature]  
Notary Public or person authorized  
by law to administer an oath or affirmation  
COMMISSIONER OF SUPERIOR COURT

The above Consent Order having been presented to the duly appointed agent of the  
Commissioner of the Department of Public Health on the 3<sup>rd</sup> day of  
September 2002, it is hereby accepted.

Thomas H. Furgalack  
Thomas Furgalack, Director  
Division of Environmental Health